



## DEFENSE SECURITY COOPERATION AGENCY

2800 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-2800

06 DEC 2021

MEMORANDUM FOR DEPUTY UNDER SECRETARY OF THE AIR FORCE FOR  
INTERNATIONAL AFFAIRS  
DEPUTY ASSISTANT SECRETARY OF THE ARMY FOR  
DEFENSE EXPORTS AND COOPERATION  
DEPUTY ASSISTANT SECRETARY OF THE NAVY FOR  
INTERNATIONAL PROGRAMS  
DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY  
DIRECTOR, DEFENSE INFORMATION SYSTEMS AGENCY  
DIRECTOR, DEFENSE LOGISTICS AGENCY  
DIRECTOR, DEFENSE THREAT REDUCTION AGENCY  
DIRECTOR, MISSILE DEFENSE AGENCY  
DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE  
AGENCY  
DIRECTOR FOR SECURITY ASSISTANCE, DEFENSE FINANCE  
AND ACCOUNTING SERVICE – INDIANAPOLIS  
OPERATIONS  
DIRECTOR OF CYBERSECURITY DIRECTORATE AND  
DEPUTY NATIONAL MANAGER FOR NATIONAL  
SECURITY SYSTEMS, NATIONAL SECURITY AGENCY

SUBJECT: Security Assistance Management Manual Policy Memorandum 21-91, Leahy  
Prohibition for Foreign Military Financing and Excess Defense Article Letters of  
Offer and Acceptance [SAMM E-Change 564]

Reference: (a) "Limitation on Assistance to Security Forces" Section 620M of the Foreign  
Assistance Act of 1961, 22 U.S.C. § 2378d, "The Leahy Law"

(b) Division K, § 7035(b)(7) of the Consolidated Appropriations Act, 2021,  
Public Law 116-260

This memorandum establishes a new mandatory case note for all Foreign Military Financing (FMF) and Excess Defense Article (EDA) Letters of Offer and Acceptance implemented after December 31, 2021. Reference (a) prohibits the U.S. Government (USG) from furnishing assistance authorized under the Foreign Assistance Act of 1961 (FAA) or the Arms Export Control Act (AECA) to units of foreign security forces if the Secretary of State has credible information that the unit has committed a gross violation of human rights. When the operational partner unit cannot be identified prior to the transfer of assistance, including FMF and EDA, Reference (b) requires that such assistance be made available subject to a written agreement with the partner government in which the partner agrees that the USG assistance

will not be provided to or employed by a security force unit that is prohibited from receiving USG assistance in accordance with Reference (a). Consistent with Reference (b), the Department of State will regularly provide partner nations, where applicable, with a list of units prohibited from receiving assistance pursuant to reference (a). The new mandatory case notes ensure compliance with this new legal requirement.

This memorandum is effective December 31, 2021. The policy in the attachment is incorporated into the DSCA Security Assistance Management Manual (SAMM) at <https://samm.dsca.mil> and is cleared for public release.

If you have questions on this memorandum, please contact Caroline Chin, DSCA Office of Strategy, Plans and Policy at (703) 697-9073, [caroline.s.chin.civ@mail.mil](mailto:caroline.s.chin.civ@mail.mil).

A handwritten signature in black ink, appearing to read "Alan Gorowitz". The signature is stylized with a large, sweeping flourish at the end.

Alan Gorowitz  
Assistant Director,  
Strategy, Plans and Policy

Attachment:  
As stated

## Security Assistance Management Manual E-Change #564

### Leahy Prohibition for Foreign Military Financing and Excess Defense Article Letters of Offer and Acceptance

- 1) Add the following row to Table C4.T3. Reasons for Change of Eligibility Status (not inclusive):

**FAILURE TO COMPLETE WRITTEN AGREEMENT REGARDING PROVISION OF U.S. GRANT ASSISTANCE TO LEAHY PROHIBITED UNITS (effective January 1, 2022)**

In circumstances when the operational partner unit or units that employ such assistance cannot be identified prior to the transfer of assistance, no U.S. government assistance under the Foreign Assistance Act of 1961 or the Arms Export Control Act may be provided unless the recipient government agrees not to provide any such assistance to a unit prohibited from receiving assistance under the Leahy law. Section 7035(b)(7) of Division K of the Consolidated Appropriations Act, 2021 ([Public Law 116-260](#))

- 2) Revise C5.1.2.1. Guideline #8:

8

If possible, identify the intended/anticipated partner operational unit or units for any defense articles and/or services to be purchased:

- a. with Foreign Military Financing (FMF) funds, or
- b. for any request for grant transfer of Excess Defense Articles, recognizing such operational unit designations may change as the case is implemented and equipment is delivered to the host nation.

To facilitate Leahy vetting, if possible, the SCO will update the recipient unit designation at the time of LOA signature, by alerting the IA, which will input updated information into DSAMS. The recipient unit(s) are the security force unit, or units intended to use or employ such assistance. Unit identification at the national- or service-level is not a permissible entry.

\*\*\*For new FMF or EDA cases implemented or amended after December 31, 2021, the United States government must conclude a written agreement with the foreign partner in which the partner government agrees that it will not provide such assistance to a partner security force unit identified by the Department of State as prohibited from receiving assistance under the Leahy law if assistance is provided to the partner in a manner in which the recipient unit or units cannot be identified prior to transfer \*\*\*

3) Insert in to the Glossary the following terms:

Term	Definition	Link
Leahy Law	Term refers to either a statutory restriction imposed by Title 10 U.S.C. § 362 (DoD Leahy Law) or Section 620M of the Foreign Assistance Act of 1961 (DOS Leahy Law) that prohibits assistance to a foreign security force unit if there is credible information that unit has committed a gross violation of human rights. Both the DOS and DoD Leahy laws allow for the remediation of tainted units.	<a href="#">10 U.S.C. § 362</a>
Leahy Vetting	The U.S. government process to assess whether there is credible information that a specific individual or a specific security force unit has committed a gross violation of human rights.	

4) Add the following LOA Note to Appendix 6:

**Leahy Prohibition for Foreign Military Financing and Excess Defense Article Cases**

Note Usage
<p>FMS: Yes</p> <p>BPC: No</p> <p>Mandatory for all new FMF or EDA cases implemented after December 31, 2021. Add note to Amendments when the Basic FMF or EDA case was implemented after December 31, 2021, unless the note is on the current implemented version. Add note to Amendments implemented after December 31, 2021 that add EDA lines or FMF Terms of Sale to any Basic case, unless the note is on the current implemented version.</p>
References
<p>See SAMM Table C4.T3.</p>
Note Input Responsibility
<p>CWD</p>
Note Text
<p>“The Benefitting Country agrees that, unless the consent of the Government of the United States of America has first been obtained, the Benefitting Country shall not provide any assistance furnished by the United States of America furnished under this LOA to any security force unit of the Benefitting Country that the Government of the United States of America has identified to the Benefitting Country via diplomatic channels as prohibited from receiving such assistance under Section 620M of the Foreign Assistance Act of 1961, also known as the Leahy law.”</p>